

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 331

Introduced by Senator Romero

February 25, 2009

An act to amend Sections 54440, 54441.5, 54442, 54443.1, 54444.1, and 54444.2 of, and to add Sections 54442.1, 54442.2, and 54444.15 to, the Education Code, relating to migrant education.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Migrant education.

~~Existing~~

(1) Existing law requires the State Board of Education to adopt a state master plan for services to migrant children, as defined, that includes the provision of specified services and activities. Existing law authorizes school districts and other education agencies to apply for funding to serve migrant pupils.

~~This bill would state the intent of the Legislature to enact legislation to promote achievement in migrant education and accountability for migrant education funding.~~

This bill would require the plan to be developed and revised as necessary by the Superintendent of Public Instruction and the statewide parent advisory council, and would require the plan to include an evaluation and monitoring component, and collection of data for migrant pupils, as specified.

(2) The bill would require the Superintendent to develop a monitoring instrument and monitoring procedure that provides for onsite monitoring of entities receiving funds for the provision of services to migrant children.

(3) *The bill would require the Superintendent to develop a process to ensure that all migrant youth enrolled in juvenile court schools and other alternative education placements are properly identified and receive all the services to which they are entitled.*

(4) *Existing law requires a migrant education program to include specified components.*

This bill would also require the program to include collection of specified individual and aggregate data for migrant pupils.

(5) *Existing law requires the Superintendent to review and approve plans for the establishment of service regions and to incorporate specified criteria in the approval of regional plans.*

This bill would require the Superintendent to include evaluations that include annual pupil progress and overall program effectiveness and quality control reports among that criteria.

(6) *The bill would require entities that receive funds for the provision of services to migrant children to include an evaluation of the overall program effectiveness for the prior year as part of its refunding application, as specified.*

(7) *Existing law requires the Superintendent and each operating agency, as defined, to furnish specified documents, including copies of state and federal audits, monitoring reports, and evaluations, to specified entities.*

This bill would require those documents to be provided in a language understandable to parents, and to provide each regional and state migrant education plan to be provided to parents in that language prior to its consideration for final approval.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 54440 of the Education Code is amended
- 2 to read:
- 3 54440. The Legislature finds and declares that:
- 4 (a) A significant number of children under the age of 18 of
- 5 migratory agricultural workers and migratory fishermen reside in
- 6 California for at least a part of each year. These children, from
- 7 among the least affluent segments of American-Society society,
- 8 tend to move frequently, attend school irregularly, and suffer health
- 9 defects problems and language handicaps which significantly

~~inhibit their progress in school barriers.~~ This results in many becoming early school dropouts, poorly prepared for personal growth and fulfillment or economic success or to enter the workforce or for academic success and upward social mobility.

(b) The problems of children of migratory agricultural parents and of migratory fisherman parents are of such magnitude and severity that local school districts have been unable to solve them with the resources normally available. It is, therefore, necessary for the state to aid local school districts through regional coordinating offices, and the provision of special programs of educational and related services for these children.

SEC. 2. Section 54441.5 of the Education Code is amended to read:

54441.5. With the concurrence of ~~his parents~~ *the child's parent*, a child who has been identified as a "migrant child" may be deemed ~~to continue to be such~~ a *migrant* child for a period, not in excess of five years, during which ~~he~~ *the child* resides in an area where programs are provided for migrant children. Priority shall be given; ~~however,~~ to programs and activities for migrant children, and in no case shall migrant programs be provided solely for children who have ceased to migrate.

SEC. 3. Section 54442 of the Education Code is amended to read:

54442. ~~The State Board of Education~~ *state board* shall adopt a state master plan for services to migrant children. *The plan shall be developed and revised as necessary by the Superintendent and the statewide parent advisory council established pursuant to Section 54444.2.* The plan shall include ~~provisions for all of the~~ following:

(a) Instructional activities on a regular and extended year basis shall be designed to identify, diagnose, and provide treatment for academic deficiencies of migrant children. Special emphasis shall be given to oral and written communications, reading, and mathematics. Small group or individual instruction and tutorial services shall be provided to assist migrant children to attain normal progress rates in all subject areas. All instructional services shall be provided as supplements to regular programs of instruction provided by the public schools for all children.

(b) Health and welfare services shall be designed to identify, diagnose, and provide treatment for conditions of a physical *nature*,

1 including dental, emotional, or environmental, ~~nature which~~ *that*
2 interfere with the learning processes of migrant children. Insofar
3 as possible, existing community resources will be utilized to
4 provide these services.

5 (c) Preservice and in-service education of professional and
6 nonprofessional personnel shall be planned to prepare school
7 administrators, teachers, aides, and other personnel to meet the
8 special needs of migrant children.

9 (d) Supportive services including transportation, family liaison,
10 and other services necessary to the success of the programs.

11 (e) Child development activities including, but not limited to,
12 social, sensorimotor, conceptual and language development, and
13 perceptual discrimination activities for migrant infants and
14 ~~pre-kindergarten-aged~~ *prekindergarten* children too young to
15 participate in instructional services normally provided by the public
16 schools.

17 (f) The active involvement of parents, teachers, and community
18 representatives in the local implementation of migrant education
19 programs.

20 (g) *An evaluation and monitoring component that provides for*
21 *oversight and evaluation of the operating agencies, school districts,*
22 *and schools on an annual basis, by the department.*

23 (h) *Collection of individual and aggregate data for migrant*
24 *pupils regarding identification, preschool participation, enrollment*
25 *in kindergarten and grades 1 to 12, inclusive, achievement,*
26 *completion of courses that fulfill the A-G subject area*
27 *requirements, suspension, expulsion, transfer, dropout, failure to*
28 *enroll or reenroll, graduation, retention, enrollment, designation*
29 *and redesignation of English learners, postsecondary enrollment,*
30 *and enrollment in alternative education programs.*

31 (i) *Individual and aggregate enrollment data shall also include*
32 *separate data concerning the number of migrant pupils enrolled*
33 *in alternative education programs including, but not limited to,*
34 *juvenile court schools, county community schools, community day*
35 *schools, continuation high schools, and independent studies.*

36 SEC. 4. Section 54442.1 is added to the Education Code, to
37 read:

38 54442.1. *The Superintendent shall develop a monitoring*
39 *instrument and monitoring procedure that provides for onsite*
40 *monitoring of each local educational agency, county office of*

1 *education, and region receiving funds for the provision of services*
2 *to migrant children at least every three years, and that addresses*
3 *each component identified in Section 54444.15 and all federal*
4 *requirements set forth under Section 6391 of Title 20 of the United*
5 *States Code and its corresponding regulatory provisions.*

6 SEC. 5. Section 54442.2 is added to the Education Code, to
7 read:

8 54442.2. *The Superintendent shall develop a process to ensure*
9 *that all migrant youth enrolled in juvenile court schools and other*
10 *alternative education placements under the state department are*
11 *properly identified and receive all the services to which they are*
12 *entitled. The department shall work with regions, local educational*
13 *agencies, and county offices of education to develop policies and*
14 *procedures to ensure that at the time of transfer and enrollment*
15 *in these schools, migrant youth who are not already identified are*
16 *properly assessed to determine if they are eligible for migrant*
17 *services and programs.*

18 SEC. 6. Section 54443.1 of the Education Code is amended to
19 read:

20 54443.1. Migrant education programs shall include all of the
21 following:

22 (a) An individual assessment of the educational and relevant
23 health needs of each participating pupil within 30 days of
24 enrollment. This assessment shall include assessments concurrently
25 provided pursuant to compensatory education, ~~bilingual-bicultural~~
26 *bilingual-crosscultural* education, school improvement programs,
27 and other programs serving the pupil.

28 (b) A general needs assessment developed in compliance with
29 federal requirements summarizing the needs of the population to
30 be served.

31 (c) A comprehensive program to meet the educational, health,
32 and related needs of participating pupils which is supplemental to
33 the program the operating agency is otherwise required to provide.
34 The program shall include, but need not be limited to, the
35 following:

36 (1) Academic instruction.

37 (2) Remedial and compensatory instruction.

38 (3) Bilingual and ~~multicultural~~ *crosscultural* instruction.

39 (4) Vocational instruction.

40 (5) Counseling and career education services.

1 (6) Preschool services in accordance with Section 54443.

2 (7) Other educational services that are not available in sufficient
3 quantity or quality to eligible migratory children.

4 (8) The acquisition of instructional materials and equipment
5 necessary to adequately provide the appropriate services.

6 (9) Other related services to meet the special needs of eligible
7 migratory children which are necessary to enable these children
8 to effectively participate in instructional services.

9 (10) The coordination and teaming of existing resources serving
10 migrant pupils, such as bilingual-crosscultural education, health
11 screening, and compensatory education.

12 (d) A brief individual learning plan listing the services to be
13 provided to each pupil shall be provided in writing or at a parent
14 conference to the parent or guardian of each participating pupil,
15 annually and each time the pupil moves to a new district.

16 (e) Staffing and staff development plans and practices to meet
17 the needs of pupils and implement the program.

18 (f) Parent and community involvement as specified in Section
19 54444.2.

20 (g) Evaluations which shall include annual pupil progress and
21 overall program effectiveness and quality control reports *in*
22 *accordance with Section 54444.15.*

23 (h) *Collection of individual and aggregate data for migrant*
24 *pupils regarding identification, preschool participation, enrollment*
25 *in kindergarten and grades 1 to 12, inclusive, achievement,*
26 *completion of courses that fulfill the A-G subject area*
27 *requirements, suspension, expulsion, transfer, drop out, failure to*
28 *enroll or reenroll, graduation, retention, enrollment, designation*
29 *and redesignation of English learners, postsecondary enrollment,*
30 *and enrollment in alternative education programs.*

31 School districts and other education agencies shall be eligible
32 to apply for funding to serve migrant pupils upon application to
33 their respective region, or, if they meet the criteria established in
34 subdivision (b) of Section 54444.1, to the department. Operating
35 agencies shall include in their application a description of how the
36 entities will coordinate the planning, budgeting, and operation of
37 the migrant education programs with the planning, budgeting, and
38 operation of other federal and state education programs addressing
39 the needs of the same or similar pupils of the operating agency.
40 The description shall include time lines and cover services provided

1 through school improvement, nonmigrant Title I, state
2 compensatory and limited- and non-English proficient, Title VII,
3 and other funds. If the application meets state and federal
4 requirements, negotiations for an appropriate service agreement
5 shall begin involving the parties listed in subdivision (a) or (b) of
6 Section 54444.1.

7 *SEC. 7. Section 54444.1 of the Education Code is amended to*
8 *read:*

9 54444.1. (a) In implementing the state master plan for services
10 to migrant children, the Superintendent of Public Instruction shall
11 establish the service regional system as the primary method for
12 the delivery of services to migrant children. ~~The superintendent~~
13 *Superintendent* shall review and approve plans for the
14 establishment of service regions and shall incorporate the following
15 criteria in the approval of regional plans:

16 (1) The boundaries of regions shall include all geographic areas
17 with migrant and seasonal agricultural workers and fishermen.

18 (2) Regional service centers shall be located in areas with high
19 concentrations of migrant and seasonal agricultural workers and
20 fishermen. Regional headquarters shall be located in areas: (i)
21 requiring large numbers of these workers for a period of at least
22 two consecutive months during each year, (ii) in areas which
23 normally contract for migrant and seasonal agricultural workers
24 with families rather than single adults, and (iii) in areas where
25 migrant and seasonal agricultural workers are involved in the
26 transition from hand labor to mechanization.

27 (3) Regions shall be located in each geographic area of the state,
28 except areas within the boundaries of directly funded districts.

29 (4) Except areas within the boundaries of directly funded
30 districts, regions shall be contiguous to one another and should
31 have no less than 1,500 and no more than 8,000 currently migratory
32 children based upon full-time equivalent enrollment. In no event
33 shall a county be split among two separate regions in order to meet
34 the requirements of this paragraph.

35 (5) Regions shall be organized so as to provide quality services
36 to all affected parties and maintain fiscal procedures in conformity
37 with requirements adopted by the department.

38 (6) The boundaries of regions shall be drawn in such a manner
39 as to avoid excessive commuting by personnel or by participants

1 in the programs, not to exceed 100 miles from the schoolsite to
2 the operating agency.

3 (7) If a proposed region cannot meet the criteria established in
4 ~~paragraphs paragraph (4) and or (6) of subdivision (a), or both,~~
5 it may request that the criteria be waived by the *state* board. The
6 waiver request shall be based upon a study, conducted by the
7 entities, including their respective parent advisory councils,
8 comprising the proposed region, ~~which that~~ explains why the
9 waiver is required and ~~which that~~ describes likely outcomes if the
10 waiver is not granted.

11 ~~(8) This subdivision shall become operative on July 1, 1982.~~

12 ~~(8) Evaluations that include annual pupil progress and overall~~
13 ~~program effectiveness and quality control reports in accordance~~
14 ~~with Section 54444.15.~~

15 ~~(b) Agencies~~ An agency meeting the criteria set forth in this
16 subdivision and subdivision (f) of Section 54441 may apply to the
17 department for designation as a region. The application shall be
18 in a format with sufficient information and at times designated by
19 the Superintendent of Public Instruction. The application shall
20 include documentation of active participation, review and comment
21 by the appropriate parent advisory councils, and signatures by
22 parent advisory council chairpersons that the review and comment
23 has taken place, and shall further include documentation that the
24 agencies and parent representative comprising the proposed ~~regions~~
25 *region* have met as a group prior to submission of the application
26 and have agreed upon the formation of, and participation in, the
27 region and a general delineation of the services which will be
28 provided in the region.

29 Directly funded districts shall be invited by the regions to
30 participate in regional activities and meetings. Staff and parent
31 advisory council members in the districts shall also be invited to
32 regional inservice activities and conferences.

33 ~~This subdivision shall become operative July 1, 1982.~~

34 ~~(c) The State Department of Education~~ *state department* may
35 ~~fund~~ directly *fund* local educational agencies, in whole or in part,
36 to provide services to eligible migrant children if it is cost effective
37 to do so; if the applicant agency serves not less than 1,500, nor
38 more than 8,000, currently migratory children; has sufficient
39 programmatic and fiscal resources to deliver an effective migrant
40 education program; is in compliance with the federal and state

requirements regarding migrant education programs; maintains an ongoing and functional parent advisory council which has voted on a biennial basis to approve the participation in the directly funded program, including the approval of a majority of the members who are the parents of migrant children; and maintains fiscal procedures in conformity with the requirements adopted by the department. All districts which are directly funded on January 1, 1982, may continue to be funded directly, provided that the districts comply with the criteria prescribed by this subdivision, except for the size criterion.

(d) The responsibilities of the various parties involved in the delivery of services to migrant children shall be set forth in a service agreement. A service agreement shall be a legally binding contract signed by the duly constituted authorities at the state, county, district, or private or public nonprofit agencies, or a combination thereof. In the regional delivery system, there shall be two parties to every service agreement; the region and the district or other operating agencies in which the eligible migrant pupils are enrolled. When a district or agency is funded directly by the state, the parties to the service agreement shall include the department and the district or operating agency in which the eligible migrant pupils are enrolled. The basic responsibilities of these three parties shall be as specified in Section 54444.4.

The parties, whether regional or directly funded, shall take the necessary steps to ensure the effective involvement of the ~~Migrant Parent Advisory Committee~~ *migrant parent advisory committee* for that district or agency. Representatives of the ~~Migrant Parent Advisory Committee~~ *migrant parent advisory committee* shall have the right to be present and participate in all deliberations between the parties regarding the service agreement or any subsequent changes thereto. The service agreement shall include a signed statement from the officers of the ~~Migrant Parent Advisory Committee~~ *migrant parent advisory committee* signifying that ~~such~~ *the* participation has occurred.

~~This subdivision shall become operative July 1, 1982.~~

(e) The Superintendent of ~~Public Instruction~~ shall develop an annual operating calendar for regions and directly funded districts, including dates for the submission and approval of applications and service agreements. Any changes in regional boundaries for the subsequent fiscal year shall be made and approved by

December 31 of the current year. Any changes in funding allocations for regions shall be made by December 31 of the current year or immediately after notification of a federal grant award.

~~This subdivision shall become operative July 1, 1982.~~

(f) The Superintendent of ~~Public Instruction~~ shall preserve the supplemental nature of the migrant education program. The program shall be maintained outside the supervision or above the administrative level of the consolidated application programs. The ~~superintendent~~ Superintendent shall not incorporate the migrant education program into the consolidated application process, except as provided below:

(1) Commencing with the 1983–84 school year, directly funded districts may apply for migrant education funds as part of their consolidated application provided the district parent advisory council on migrant education approves the inclusion.

(2) Commencing with school year 1982–83 and pending the recommendations of the department study and task force report, a copy of the district’s annual application for migrant education funds as required by Section 54443.1 shall be attached to the district’s annual consolidated application.

SEC. 8. Section 54444.15 is added to the Education Code, to read:

54444.15. A local educational agency, county office of education, and region receiving funds for the provision of services to migrant children, as a part of its refunding application, shall include an evaluation of the overall program effectiveness for the prior year that includes all of the following:

(a) Deficiencies in academic achievement of migrant children as compared to nonmigrant children.

(b) Identification of, and provision of services to, migrant children in the geographic area served by the district, agency, or region, including out-of-school migrant youth and children and youth enrolled in alternative and court-supervised school placements.

(c) Enrollment in preschool and kindergarten.

(d) Access to and enrollment in and completion of courses that fulfill the A-G subject area requirements.

(e) Dropout prevention and intervention.

(f) Retention.

(g) Vocational education opportunities.

1 (h) *Graduation, including completion of the high school exit*
2 *examination.*

3 (i) *Postsecondary enrollment.*

4 (j) *Health services.*

5 (k) *Intercession programs.*

6 (l) *Other supplemental services.*

7 (m) *Staff experience and quality.*

8 (n) *Data collection and evaluation.*

9 (o) *Records transfer.*

10 (p) *Parental involvement, including establishment of and*
11 *participation in the parent advisory committee, conduct of regular*
12 *meetings, participation in the development and approval of the*
13 *local migrant education plan, participation in statewide parent*
14 *advisory committee activities, and parent training.*

15 SEC. 9. *Section 54444.2 of the Education Code is amended to*
16 *read:*

17 54444.2. (a) The Superintendent of Public Instruction shall
18 take the steps necessary to—~~assure~~ *ensure* effective parental
19 involvement throughout the state migrant education program,
20 which shall include, but need not be limited to, the following:

21 (1) ~~The superintendent~~ *Superintendent* shall adopt rules and
22 regulations requiring each operating agency receiving migrant
23 education funds or services to actively solicit parental involvement
24 in the planning, operation, and evaluation of its programs through
25 the establishment of, and consultation with, a parent advisory
26 council.

27 The membership of each parent advisory council shall be
28 comprised of members who are knowledgeable of the needs of
29 migrant children and shall be elected by the parents of migrant
30 children enrolled in the operating agency's programs. The
31 composition of the council shall be determined by the parents at
32 a general meeting to which all parents of pupils enrolled in the
33 migrant program shall be invited. Parents shall be informed, in a
34 language they understand, that the parents have the sole authority
35 to decide on the composition of the council. All parent candidates
36 for the council shall be nominated by parents; nonparent candidates
37 shall be nominated by the groups they represent ~~(i.e., teachers by~~
38 ~~teachers, administrators by administrators, other school personnel~~
39 ~~by other school personnel, and pupils by pupils)~~ *pupils*. All other
40 community candidates shall be nominated by the parents. Each

1 parent advisory council shall hold meetings on a regular basis
2 during the operation of the regular program, but not less than six
3 times during the year.

4 At least two-thirds of the members of each parent advisory
5 council shall be the parents of migrant children. Each parent
6 advisory council shall have the responsibilities listed in subdivision
7 (a) of Section 54444.4.

8 (2) ~~The superintendent~~ *Superintendent* shall establish a statewide
9 parent advisory council which shall participate in the planning,
10 operation, and evaluation of the state migrant education program.
11 The membership of the statewide parent advisory council shall be
12 comprised of members who are knowledgeable of the needs of
13 migrant children and shall be nominated and elected by the parents
14 of migrant children enrolled in the operating agencies. At least
15 two-thirds of the members of the ~~State Parent Advisory Council~~
16 *state parent advisory council* shall be the parents of migrant
17 children. The state council shall meet a minimum of six times a
18 calendar year to provide input on issues relating to the operation
19 of the program. Special meetings may be called at the discretion
20 of the state director.

21 ~~The superintendent~~ *Superintendent* shall also sponsor an annual
22 ~~State Parent Advisory Council Conference~~ *state parent advisory*
23 *council conference*. The conference shall be scheduled during the
24 spring of every year. Within 120 days from the conclusion of the
25 conference, the state parent advisory council shall prepare and
26 submit a report to the Legislature, State Board of Education, the
27 ~~superintendent~~ *Superintendent*, and the Governor regarding the
28 status of the migrant education program.

29 (3) ~~The superintendent~~ *Superintendent* and each operating
30 agency shall furnish, without charge, to the statewide and operating
31 agency parent advisory councils and, upon request, to each
32 member, a copy of all applicable state and federal migrant
33 education statutes, rules and regulations, and guidelines. In
34 addition, the ~~superintendent~~ *Superintendent* and each operating
35 agency shall furnish, without charge, to the statewide and operating
36 agency parent advisory councils and, upon request, to each
37 member, copies of all applicable state and federal audits,
38 monitoring reports, and evaluations. *Upon request and when*
39 *practicable, these documents shall be provided in a language*
40 *understandable to parents, and each regional and state migrant*

1 *education plan shall be provided to parents in that language prior*
2 *to its consideration for final approval.*

3 (4) ~~The superintendent~~ *Superintendent* and each operating
4 agency shall establish and implement training programs for
5 members of the statewide and operating agency parent advisory
6 councils to enable them to carry out their responsibilities. Each
7 training program shall be developed in consultation with the parent
8 advisory councils and shall include appropriate training materials
9 in a language understandable to each member. Costs incurred in
10 providing training under this paragraph, including federally
11 authorized expenses associated with the attendance of members
12 at training sessions, shall be funded, to the extent that funds are
13 available, by federal funds allocated to the state, based upon the
14 educational and related health needs of migratory children defined
15 in subdivisions (a) and (b) of Section 54441, and may be supported
16 by funds from the state migrant education program.

17 (b) Each operating agency which provides services on a
18 statewide basis shall be exempt from the requirement that it create
19 its own parent advisory council, but shall consult the statewide
20 parent advisory council in the planning, operation, and evaluation
21 of its programs.

22 ~~SECTION 1. It is the intent of the Legislature to enact~~
23 ~~legislation to promote achievement in migrant education and~~
24 ~~accountability for migrant education funding.~~